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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 18

January 23, 2001

No. 03

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JAN 26 2001

STATE DOCUMENTS

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OFFICE OF RESEARCH

Room 213, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803) 734-3230

WEEK IN REVIEW

HOUSE

The House of Representatives took up the remaining **GOVERNOR'S VETOES FOR APPROPRIATIONS BILLS**. The House sustained the remaining veto for **H.3649** of 2000, a bill appropriating surplus funds and other General Fund revenues for the 2000-2001 fiscal year. The veto eliminates a \$1 million appropriation for the Midlands Film Institute. The House adjourned debate on Veto 3 for **H.4775** of 2000, the Fiscal Year 200-2001 General Appropriations Act. The veto strikes a Part IB temporary proviso pertaining to the Renaissance Downtown Renewal Project.

The House approved and sent to the Senate, **H.3282**, a bill pertaining to a **WAIVER FOR THE CRITICAL NEED TEACHER CERTIFICATION PROGRAM**. Language approved in a temporary provision of the Fiscal Year 2000-2001 General Appropriations Act, provides that for individuals with work experience and content area degree, but who lack South Carolina teaching credentials, the State Board of Education, for the Critical Need Teacher Certification Program, is authorized to waive, for an individual program eligibility purposes, the satisfactory completion of the Praxis II subject area exam for up to six months after the first day of employment. The bill extends the six- month maximum to twelve months.

The House also approved and sent to the Senate **H.3140**, a joint resolution that adopts a revised **VOLUME FOURTEEN OF THE SOUTH CAROLINA CODE OF LAWS** as of January 1, 2001. The legislation comes in response to the determination by Legislative Council and the Code Commissioner that the cumulative supplement for Volume Fourteen has become too bulky for convenient use.

SENATE

The Senate gave third reading to **S.115**, a bill relating to annual **LICENSES TO OPERATE CERTAIN AMUSEMENTS**. This bill revises licensure provisions for coin-operated machines and devices and other amusements by adding an option to purchase an eight-month license in lieu of a twenty-four-month or six-month license. The bill provides that a person may be granted a nonrefundable license beginning March first and to expire October thirtieth, following the date of issue, which may not be prorated. The fee for this eight-month license is one-third the biennial license fee.

Additionally, **S.114** was read for the third time and ordered sent to the House. This bill increases the number of **MEMBERS ON THE SENATE MANAGEMENT AND OPERATIONS COMMITTEE** from seven to nine.

JOINT ASSEMBLY: GOVERNOR'S STATE OF THE STATE ADDRESS

On Wednesday, January 19, the House of Representatives and Senate met in joint assembly in the House Chamber to be addressed by Governor James H. Hodges on the state of the state. The Governor's State of the State Address focused primarily on public education reform and included the following points of interest:

- A proposal to raise teacher pay by \$2,000 this year and to raise teacher pay to the national average within six years
- A proposal to help schools make the grade as required by the Education Accountability Act by devoting \$54 million to fully fund accountability
- A proposal to ensure student safety by replacing the state's oldest and most dangerous school buses
- An endorsement of a lottery proposal that has four parts: (1) a free technical education for anyone at any age; (2) college scholarships that expand the number of students receiving aid; (3) master's degrees for teachers who want to upgrade their skills; and (4) classroom technology to make our state a national leader in high-tech learning
- A recommendation to downsize state government by reducing non-education spending by 15 percent, a cut of more than \$460 million
- A recommendation for passing a comprehensive budget reform package that outlaws spending surplus money on recurring expenditures
- A proposal to run state government like a business, with tax dollars devoted to core priorities: education, health care, safe communities, and targeted tax relief
- A proposal to have a sales tax holiday every six months, one in February and one in August
- A recommendation for a \$25 million food tax credit
- A proposal to permanently establish a \$50,000 homestead exemption for senior citizens
- A proposal to use tobacco settlement funds to continue the SilverCard program, to continue health screenings for newborns, and to continue smoking prevention programs for teens
- A recommendation to address the issues of domestic violence by (1) stopping the practice of diverting offenders to pretrial-intervention, and (2)

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making sure judges are fully aware of the extent and severity of domestic violence

- A proposal for a 3-point plan on highway safety: (1) more guardrails along our medians, (2) more trooper on our roads, and (3) more responsibility from our drivers
- A recommendation to use \$30 million from the State Infrastructure Bank to build highway medians along some of our most dangerous stretches of road
- A recommendation to add a new class of state troopers to patrol our highways and catch reckless drivers
- A recommendation for a youth driving curfew – no teenage drivers on our roads after midnight
- A recommendation to authorize primary seat belt enforcement
- A recommendation to invest \$15 million to preserve historic assets, enhance wildlife habitats, and promote green space

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee met to adopt rules.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met and considered **Regulation 2360**, concerning **LIFE SCHOLARSHIPS**. The Committee reported out **H.3277**, a joint resolution to disapprove this regulation, which concerns transfer of grade point average (GPA) and continuing eligibility for the scholarship when a student moves from one institution to another.

JUDICIARY

The Judiciary Committee gave a favorable recommendation to **H.3138**, a joint resolution that would **SHORTEN THE LEGISLATIVE SESSION**. This joint resolution proposes that the General Assembly will convene in the State Capitol on the second

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Tuesday in January in even-numbered years and on the second Tuesday in February in odd-numbered years.

H.3138 proposes an organizational meeting of the Senate and House of Representatives in even-numbered years for the purposes of organization and electing officers. This joint resolution proposes during odd-numbered years that the officers of the House and Senate will convene on second Tuesday in January for not more than two days in order to 1) accept any bills or resolutions introduced by a member, and 2) refer the bills and resolutions to the appropriate committees.

Among other things, **H.3138** proposes to delete certain obsolete language from the State Constitution relating to the sessions of the General Assembly. This joint resolution proposes that if casualties of war or contagious disease make it unsafe to meet at the seat of government, then the Governor by proclamation may appoint a more secure place to meet. This joint resolution proposes that members of the General Assembly should not be compensated for more than forty days in any one session.

H.3139, another bill that would **SHORTEN THE LEGISLATIVE SESSION**, also received a favorable recommendation from the Judiciary Committee. This bill changes the date for *sine die* adjournment of the General Assembly from the first Thursday in June to the second Thursday in May. Currently, in any year the House of Representatives fails to give third reading to the appropriations bill by March 31, then the date of *sine die* adjournment is extended by one statewide day for each statewide day after March 31 that the House of Representatives fails to give the bill third reading. Under this bill, in any year the House of Representatives fails to give third reading to the appropriations bill by March 15, then the date of *sine die* adjournment is extended by one statewide day for each statewide day after March 15 that the House of Representatives fails to give the bill third reading.

The Legislative Council and the Code Commissioner have determined that the cumulative supplement to **VOLUME FOURTEEN OF THE SOUTH CAROLINA CODE OF LAWS** has become too bulky for convenient use. The Judiciary Committee gave a favorable report to **H.3140**, a joint resolution that adopts the revised Volume Fourteen as of January 1, 2001.

The Judiciary Committee adjourned debate on **H.3131**, a bill pertaining to **ASSAULT AND BATTERY**. Currently, the statute of limitations for commencing an action for assault and battery is two years. This bill increases the statute of limitations to three years.

H.3053, a bill pertaining to the **EMBEZZLEMENT OR APPROPRIATION OF PUBLIC FUNDS OR PROPERTY TO PRIVATE USE**, received a favorable recommendation with amendment from the Judiciary Committee. As introduced, this bill creates a general lien upon the real and personal property of any public officer, public employee, or any other person who is convicted of an offense involving embezzlement or appropriation of public funds or public property to the private use of himself or herself or any other person. The Judiciary Committee's proposed

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amendment creates a general lien upon the retirement account of any public officer, public employee, or any other person who is convicted of an offense involving embezzlement or misappropriation of public funds or public property to the private use of himself/herself or any other person. The lien is to the extent of the total loss, damage, and expense to the State, to a county or municipality, or to any agency or political subdivision of the State, or to any state, county or municipal agency, any college or university, or to any school, special or public service district within the State, that is authorized by law to perform a governmental function or provide a governmental service. The lien attaches upon the date of conviction.

The Judiciary Committee's proposed amendment defines the term "retirement account" to mean a state retirement system; this bill does not apply to private retirement systems. Additionally, the Judiciary Committee's proposed amendment to H.3053 provides that the right of a person to an annuity or a retirement allowance or to the return of contributions, an annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of any private retirement system operated by a municipality are exempted from any state or municipal tax, except the taxes imposed pursuant to 6 and 16 of Title 12, and are exempted from levy and sale, garnishment, attachment, or any other process and are unassignable except as specifically provided.

The Judiciary Committee's proposed amendment to H.3053 requires the presiding judge to send the Attorney General and the State Retirement System a notice of the lien showing (1) the name of the person convicted whose retirement account is the subject to the lien, and (2) the date of the conviction, which is the date upon that the lien attaches. Under the Judiciary Committee's proposed amendment, the presiding judge must set the lien at the time of conviction and the presiding judge's notice of lien must state the amount of the lien.

In addition to any to any other sentence imposed upon a person for embezzlement, H.3053 allows the presiding judge the option to require full restitution of all public funds embezzled and full payment for the conversion, use, and value of public property appropriated to private use. Also under H.3053, the presiding judge may provide for an indeterminate sentence of incarceration or probation, or both until restitution in full has been made.

Under H.3053, the Attorney General is charged with an affirmative duty to recover public funds and property embezzled or converted to private use. This bill authorizes the Attorney General or his designee to file a satisfaction and discharge the lien created by this legislation after restitution has been made by payment of the amount of the lien in full or after the death of the person whose retirement account is subject to the lien. However, the Judiciary Committee's proposed amendment provides that if the beneficiary of the person whose retirement account is subject to the lien was himself/herself convicted of an offense involving the embezzlement or misappropriation of public funds or public property, then the lien must continue until restitution has been made or until the death of the beneficiary.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met to adopt rules.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3296 *MOTORBOAT RESTRICTIONS ON LAKE THURMOND* Rep. Parks

This bill establishes certain noise control requirements for motorboats operating upon waters on J. Strom Thurmond Lake between United States Highway 378 and the Huguenot Parkway. Penalties are established for violations.

EDUCATION AND PUBLIC WORKS

H.3265 *ELIGIBILITY CRITERIA FOR LIFE SCHOLARSHIPS* Rep. Harrison

This bill deletes the requirement that the 3.0 grade point average which is part of the eligibility requirement for students enrolled in eligible institutions to receive or retain the LIFE Scholarship, must be a cumulative average.

H.3266 *DEPARTMENT OF TRANSPORTATION BRIDGE REPAIRS* Rep. Bowers

This bill requires that the Department of Transportation obtain approval from a majority of a county's legislative delegation before the department closes a bridge for repairs that will not be completed within a forty-five day period.

H.3272 SPECIAL NASCAR LICENSE PLATES Rep. Neilson

This bill authorizes the Department of Public Safety to issue special NASCAR license plates, and provides for the design of, distribution of, and fees collected for these plates.

H.3280 ETIQUETTE DAY IN SOUTH CAROLINA Rep. Rutherford

This concurrent resolution declares February 14, 2001, as "Etiquette Day in South Carolina" and commends the University of South Carolina's Educational Talent Search Program, an eighth grade curriculum which focuses on etiquette.

H.3292 COUNTY TRANSPORTATION COMMITTEE MEETINGS Rep. Wilder

This bill increases from ten to thirteen the number of meetings for which a member of the Laurens, McCormick, Greenwood, or Abbeville County Transportation Committees may be paid to attend.

JUDICIARY

H.3268 PRISONERS' REVIEW FOR PAROLE Rep. Harrison

Once a prisoner in confinement for a violent crime receives a negative determination of parole, under this bill his or her case may be reviewed every two years so long as the Board of Probation, Parole, and Pardon Services finds that (1) it is not reasonable to expect that parole would be granted at a hearing during the following year and (2) states the basis for the finding.

**H.3270 THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
Rep. Harrison**

This bill provides that each seat on the South Carolina Employment Security Commission is a separate office and must be assigned a numerical designation. Under this bill, each election must be for a specific seat on the Commission. The bill further provides that the term of office for the commissioners begins on July 1 of each presidential election year.

**H.3271 DATA, OPINIONS, COMMENTS, OR SUGGESTIONS PROVIDED BY
EMPLOYEES OR AGENCIES OF THE FEDERAL GOVERNMENT
Rep. Harrison**

The courts of the United States have decided that the supremacy clause of the United States Constitution prohibits mandatory attendance and testimony of federal employees in state court proceedings, judicial or administrative, in which the United State is not a party. This bill applies to all parties to contested cases subject to the South Carolina Administrative Procedures Act.

This bill provides that when taking final agency action, no state agency, department, board, or commission shall consider data, opinions, comments, or suggestions provided by employees or agencies of the federal government unless such is accompanied by a clear and unequivocal statement that:

- the preparers of the data, opinion, comment, or suggestion will be available, in the same manner and to the same extent as if such persons were not employees of the federal government, for pre-hearing discovery depositions and testimony at any hearing if the final agency action becomes the subject of a contested case;
- the files of the federal government employee or agency, or both, will be made available for discovery by all parties to a contested case arising from the final agency action, in full accord with the rules governing discovery in a contested case.

In a contested case, this bill provides that no evidence, either testimonial or documentary, or both, may be received into evidence and made a part of the record if it was produced by agents or employees of the federal government who were not available to all parties to the proceeding for (1) pre-hearing deposition, or (2) review of documents, or (3) cross-examination.

H.3273 WRITE-IN VOTING FOR PRESIDENT AND VICE PRESIDENT

Rep. Wilder

This bill outlines a procedure for allowing write-in voting for President and Vice President. Under this bill, a person who wishes to run for President or Vice President at the general election as a write-in candidate must file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to the candidate. Write-in votes cast for President or Vice President for persons who have not complied with this section must not be tallied and are considered void votes. The county election commissions must provide to the precinct election officers certified lists of those persons who have filed declarations of intent. The bill also amends *South Carolina Code of Laws* §7-13-360, relating to write-in ballots, so as to delete the prohibition on allowing write-in voting for President and Vice President.

H.3276 CERTIFIED CANDIDATES NOMINATED BY PETITION, PRIMARY, OR CONVENTION

Rep. Klauber

This bill relates to certified candidates nominated by petition, primary, or convention. This bill provides that a candidate nominated by more than one party may not have the aggregate of all votes received counted to determine the winner in an election. The bill further provides that the only votes received as a candidate for each party nominee may be used to determine the winner in an election.

H.3281 CERTIFIED CANDIDATES NOMINATED BY PETITION, PRIMARY, OR CONVENTION

Rep. Altman

This bill relates to certified candidates nominated by petition, primary, or convention. The bill prohibits a candidate from being nominated by more than one political party. The bill further provides that the authority charged by law with printing the ballots shall print the name of a candidate with the one political party that nominates him/her and may not print his/her name as nominated by more than one party.

H.3283 COLLECTION OF DATA REGARDING TRAFFIC ENFORCEMENT

Rep. F. Smith

This bill requires the Director of Public Safety to collect, correlate, and maintain certain statistical information regarding traffic law enforcement by certified law enforcement officers. Samples of this statistical information to be collected include:

- the number of drivers stopped and whether or not a warning or citation was issued
- identifying characteristics of the drivers stopped (including race, ethnicity, age, and gender)
- alleged traffic violation
- whether there was a search of the vehicle, personal effects, driver, or passengers
- legal basis for any searches
- whether contraband was found and the type and amount of contraband
- whether an arrest was made
- whether property was seized under the forfeiture laws
- whether officers making the stop encountered physical resistance from the driver or passenger
- whether injuries resulted from the stop
- whether the circumstances surrounding the stop were the subject of an investigation and the results of the investigation

The bill provides that the statistical traffic law enforcement information is subject to the Freedom of Information Act.

H.3286 SERVICE CHARGES FOR DRAWING FRAUDULENT CHECKS OF ONE HUNDRED DOLLARS OR LESS

Rep. Davenport

This bill increases the service charge for drawing fraudulent checks of \$100 or less from \$25 to \$30.

H.3293 DATE OF PARTY PRIMARIES, CERTIFICATION OF NAMES FOR PRIMARY BALLOTS, AND FILING FEES

Rep. Altman

This bill relates to the date of party primaries, certification of names for primary ballots, and filing fees. Specifically, this bill changes the primary date from the second to the last Tuesday in June.

H.3295 "THE CITIZEN'S SELF-DEFENSE ACT OF 2001"

Rep. Sharpe

This bill enacts "The Citizen's Self-defense Act of 2000" which protects the right of individuals to obtain firearms for security so long as the individuals are not prohibited from receiving a firearm by Public Law 90-351. Under certain listed circumstances, this bill protects the rights of individuals to use firearms in defense of self, family, or home.

H.3297 PISTOLS

Rep. Barrett

Under this bill, it is unlawful sale, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale any pistol to an individual who has received a pardon from a violent crime. This bill further provides that it is unlawful to purchase, sale,

transport, pawn, receive or possess a stolen pistol or a pistol from which the original serial number has been removed or obliterated.

LABOR, COMMERCE, AND INDUSTRY

S.115 LICENSES FOR OPERATING AMUSEMENTS Sen. Elliott

This bill revises licensure provisions for coin-operated machines and devices and other amusements by adding an option to purchase an eight-month license in lieu of a twenty-four-month or six-month license. The bill provides that a person may be granted a nonrefundable license beginning March first and to expire October thirtieth, following the date of issue, which may not be prorated. The fee for this eight-month license is one-third the biennial license fee.

H.3288 MANUFACTURED HOUSING Rep. Cato

This bill conforms provisions relating to the business of manufactured housing to the statutory organizational framework established for boards under the administration of the Department of Labor, Licensing and Regulation. The legislation further provides for the licensure and regulation of the South Carolina Manufactured Housing Board.

H.3289 MINIMUM WAGE REQUIREMENTS IN POLITICAL SUBDIVISIONS

Rep. Cato

This bill provides that no political subdivision of this State (including, but not limited to, a municipality, county, school district, special purpose district, or public service district) may establish, mandate, or otherwise require a minimum wage that exceeds the federal minimum wage set forth in 29 U.S.C. 206. This prohibition includes, but is not limited to, any type of contractual agreement, including service contracts entered into by a political subdivision.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3269 CHIROPRACTIC EXAMINERS Rep. Harrison

This bill conforms provisions pertaining to chiropractic examiners to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The legislation further provides for the licensure and regulation of the State Board of Chiropractic Examiners.

H.3287 STATE VETERANS' CEMETERIES Rep. White

This bill authorizes the Department of Veterans Affairs to establish one or more State Veterans' Cemeteries in the state and to provide for the manner in which the cemeteries must be acquired, maintained, and operated.

WAYS AND MEANS

H.3267 DEFINITIONS USED IN CONNECTION WITH STATE EMPLOYEE GRIEVANCE PROCEDURES Rep. Harrison

For purposes of state employee grievance procedures, this bill clarifies the definition of "demotion" and "promotion" with regard to employees in positions or assigned to positions without a state salary range. The bill adds language to the current definition of "demotion" so as to provide that for employees without a state salary range, a "demotion" means the assignment of a lower rate of pay to the employee except when the employee's job duties are also decreased for non-punitive reasons. The bill deletes entirely the current definition of "promotion" and provides that "promotion" means the assignment of an employee by the appointing authority from one established position to a different established position having a higher state salary range or, for positions without a state salary range, having a higher rate of pay.

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**OFFICE OF RESEARCH
S. C. HOUSE OF REPRESENTATIVES
213 BLATT BUILDING
POST OFFICE BOX 11867
COLUMBIA, SOUTH CAROLINA 29211**

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